

**UNITED STATES GOVERNMENT
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 29**

DSA COMMUNITY PUBLISHING, LLC
Employer

and

Case No. 29-RC-9399

GRAPHIC COMMUNICATIONS
INTERNATIONAL UNION, LOCAL 406, AFL-CIO
Petitioner¹

DECISION AND DIRECTION OF ELECTION

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, herein called the Act, as amended, a hearing was held before Rosalind Rowen, a Hearing Officer of the National Labor Relations Board, herein called the Board.

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned.

Upon the entire record² in this proceeding, the undersigned finds:

1. The Hearing Officer's rulings made at the hearing are free from prejudicial error and hereby are affirmed.

2. The parties stipulated that DSA Community Publishing, LLC, herein called the Employer or DSA, is a corporation with its principal office and place of business located at 250 Miller Place, Hicksville, New York, herein called the Miller

¹ The undersigned Regional Director hereby corrects the Petitioner's name sua sponte.

² The undersigned hereby amends the transcript sua sponte as indicated in the Appendix attached hereto. References to the Employer's exhibits will hereinafter be abbreviated as "Er. Ex. #." References to transcript page numbers will be abbreviated as "Tr. #."

Place facility,³ where it is engaged in publishing and distributing weekly "shoppers" and other publications. Based upon a projection of its operations since February 1999, when DSA assumed control of the operations, the Employer will annually derive gross revenues in excess of \$200,000, and will annually purchase and receive at its Miller Place facility, supplies and materials valued in excess of \$5,000, directly from suppliers located outside the State of New York.

Based on the stipulation of the parties, and on the record as a whole, I find that the Employer is engaged in commerce within the meaning of the Act, and that it will effectuate the purposes of the Act to assert jurisdiction herein.

3. The labor organization involved herein claims to represent certain employees of the Employer.

4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.

5. The Petitioner herein, Graphic Communications International Union, Local 406, AFL-CIO, seeks to represent a unit of all full-time and regular part-time artists, proofreaders, traffic employees, paginators, book checkers, error trackers and electronic imagers, employed in the pre-press department⁴ at the Employer's facility on

³ As discussed in more detail below, the Employer also has a facility located on West John Street in Hicksville, New York. Thus, each Hicksville facility will be referred to hereinafter by its street location (Miller Place or West John Street).

⁴ Although the petition initially characterized this group as "art department" employees, it is clear from record evidence (such as Er. Ex. 1) that the Employer calls this group the "pre-press" department. Thus, although the Petitioner never officially amended its petition, it is obvious from the record and from Petitioner's post-hearing brief that the Petitioner seeks to represent employees in the pre-press department.

Miller Place in Hicksville, which is the Employer's principal office and place of business.

The Employer contends that the petitioned-for unit is inappropriate on three grounds. First, the Employer contends that it would be inappropriate to include electronic imagers in a unit with other pre-press employees, inasmuch as the electronic imagers do not share a community of interest with the other petitioned-for employees. Second, the Employer contends that the petitioned-for single-site unit limited to the Miller Place facility inappropriately excludes employees employed in those same classifications (artists, traffic employees, proofreaders and paginators) at the Employer's "satellite" offices located on West John Street in Hicksville, New York ("the West John Street facility"); in Brooklyn, New York ("the Brooklyn facility"); in Port Jefferson, New York ("the Port Jefferson facility"); and in Cherry Hill, New Jersey ("the New Jersey facility"). Third, the Employer contends that it would be inappropriate to exclude artists employed in *other* departments, such as the marketing department at Miller Place and the classified advertisement departments in Brooklyn and West John Street, from a multi-site unit including pre-press artists.

In support of its positions on these issues, the Employer called the following three witnesses to testify: project manager Mark MacNish, human resources manager Susan Annuziata and senior vice president/chief operating officer Richard Czark. The Petitioner did not call any witnesses to testify.

The Petitioner has indicated its willingness to proceed to an election in any unit found appropriate herein.

The parties stipulated that the following leadpersons in the pre-press department are supervisors as defined in Section 2(11) of the Act, inasmuch as they assign and direct employees using independent judgment, effectively recommend the hiring and promotion of employees, issue written warnings, and regularly fill in for the shift supervisors: Jennifer Murphy, Noelle Bongiorno, Patty O'Gorman, Scott Maltese, Elaine Caputo, Seanna Sexton, John Logerfo, Jane Salzman, Elizabeth Sheinin, David Nelson, John McCormack, Dianne McMillan, Susan Small, Rich Simonelli, Bill Felice and Kevin Sheridan. Based on the parties' stipulations and the record as a whole, I hereby find the leadpersons to be supervisors as defined in Section 2(11) of the Act and, as such, they will be excluded from the bargaining unit.

The parties also stipulated that "contingent" employees (including Carol Zarb, Carol Gandarillas, Karen Paoli, Debi Tucker and John McHugh), who work at the Miller Place facility on an "as needed" basis, will be eligible to vote if they worked an average of at least 4 hours per week during the quarter preceding the date of this Decision. I hereby find that contingent employees who meet the above formula are eligible to vote as regular part-time employees.

Overview of the Employer's operations and other background information

The following description of the Employer's operation is based on the testimony of project manager Mark MacNish, who was the Employer's principal witness and whose testimony was un rebutted. Where indicated below, MacNish's testimony was supplemented by the Employer's other witnesses, Annuziata and Czark.

As previously noted, DSA publishes and distributes weekly "shoppers" and other advertising publications in New York and New Jersey, under the names This Week,

Yankee Trader, Brooklyn Marketeer-Pennysaver, Huntington-Pennysaver and Shopper's Guide. These titles actually cover different sub-publications geared towards specific neighborhoods or towns. For example, the Brooklyn Marketeer publications include an edition labeled as #525 for East New York, as well as editions labeled as #503, 508, 510 and so on for various other localities in or near Brooklyn.⁵ MacNish testified that DSA publishes a total of 200 such publications.

DSA employs sales employees, who take advertising orders from customers at locations corresponding to the geographical grouping under each title. Specifically, the sales employees at the Miller Place facility (DSA's principal office and place of business) take orders for advertisements ("ads") in the Huntington publications and for a subdivision called Results Media.⁶ The sales employees at the West John Street facility take orders for This Week publications; at the Port Jefferson facility for Yankee Trader publications; at the Brooklyn facility for the Marketeer publications; and at the New Jersey facility for the Shopper's Guide publications.⁷ As described in more detail below, some of the ad *creation* process occurs at the Miller Place facility, and some occurs in the satellite offices (West John Street, Port Jefferson, Brooklyn and New Jersey).

The Miller Place facility employs more than 100 pre-press employees (artists, traffic employees, proofreaders, book checkers, paginators and electronic imagers) who create, check and assemble pages of ads and turn the pages into film negatives, before

⁵ See Er. Exhibits 4(b) and 5. See also Er. Ex. 4(a)(Yankee Trader #316, for North Shirley/Mastic) and 4(c)(Marketeer Pennysaver #519, for Staten Island).

⁶ It is not clear from the record which publications fall under the rubric of Results Media.

⁷ There are also sales employees at other DSA facilities, such as one in Coram, New York. However, the instant case involves only those facilities which employ artists and other pre-press

the negatives are then turned into plates for the printing process. The Miller Place facility is open 24 hours a day, seven days per week. By contrast, the satellite offices each employ a smaller number of pre-press employees and other employees, and are open only from 9:00 AM to 5:00 PM, Mondays through Fridays. Specifically, the West John Street facility, which is a 10-minute drive from Miller Place, employs 3 pre-press artists, 1 traffic employee, 1 proofreader, 7 coupon artists and 4 classified-ad artists. The Port Jefferson facility, which is a 35-minute drive from Miller Place, employs 4 pre-press artists. The Brooklyn facility, which is a 45-minute drive from Miller Place, employs 4 pre-press artists, 1 traffic employee and 2 classified-ad artists. Finally, the New Jersey facility, which is located more than 100 miles away from Miller Place,⁸ employs 12 pre-press artists, 1 proofreader and 1 paginator.

It should be noted as background that the facilities involved herein have undergone certain changes in ownership, mergers and consolidations in the past few years. Although the Hearing Officer correctly precluded the Employer from introducing detailed evidence regarding its predecessor's transfers occurring more than a year ago in 1998 (on the ground that those transfers have limited relevance to unit employees' *current* status), a brief chronology will be summarized here to show the context in which some changes have been made, and to explain why some differences remain between the facilities. The record indicates that a company called Newport Media (a predecessor of DSA) was formed in 1997 and acquired various publishing companies. (Newport Media

employees, which the Coram facility does not. Accordingly, this Decision discusses only those facilities which employ employees in the petitioned-for classifications.

⁸ The record does not contain evidence of the New Jersey facility's distance from Miller Place. However, administrative notice is taken that Cherry Hill, New Jersey, is located in the southwestern portion of New Jersey near Philadelphia, and is at least 75 miles away from Manhattan, which in turn is at

apparently began operating the Miller Place facility, but it is not clear from the record whether the Port Jefferson and New Jersey facilities were included at that time.) MacNish testified that Newport Media began a process of standardizing the artists' computer work stations at various facilities, in order to be able to exchange artists between locations without additional training. In 1998, Newport Media acquired the Marketeer publications in Brooklyn, which entailed certain transfers between the Brooklyn and Miller Place facilities from mid-to-late 1998. In February 1999, DSA took over Newport Media. In June 1999, DSA also took over the This Week publications at West John Street, resulting in various permanent and temporary transfers between Miller Place and West John Street, as described in more detail below. The duties of MacNish, who was promoted from shift supervisor to training project manager at that time, included training the West John Street employees to use the same ad-creation software (Multi-Ad Creator) as the other facilities, in order to "integrate" the West John Street and Miller Place facilities.

It should also be noted as background that DSA decided in 1999 to subcontract its printing operations by early 2000, which would result in the layoff of nearly all its production employees at the Miller Place facility. The Petitioner herein filed a petition in Case No. 29-RC-9370 to represent the Employer's production employees, including platemakers, pressmen, warehouse employees, inserters and drivers. The Petitioner also filed unfair labor practice charges in Case Nos. 29-CA-23104 and 29-CA-23122, alleging *inter alia* that the Employer undertook the subcontracting plans to discourage employees from supporting the Petitioner. Those matters are still pending.

least 25 miles away from Hicksville. The Employer's post-hearing brief estimates that its New Jersey

Pre-press ad-creation process at the Miller Place facility

The Employer creates a total of 5,000 to 6,000 ads per week. At Miller Place, the ad-creation process takes place as follows. Once the sales employees take customers' orders for ads and fill out the appropriate order forms (See Er. Ex. 5(a) and (b)), the forms are routed via traffic employees to the artists who create the ads. MacNish testified that the pre-press artists at Miller Place may get order forms via traffic employees at Miller Place, or via messengers from the satellite facilities. (The record does not indicate which ads from the satellite sales offices are actually created by artists in those satellite offices, versus which ads from satellite sales offices are created at Miller Place, or exactly how that determination is made). At some point early in the process, **traffic employees** categorize, sort and collate the order forms according to the Employer's "press rotation" (for products which the Employer itself will print) or according to a sequence of external deadlines (for products which a subcontractor will print). The order forms are placed in separate bins, according to this rotation or sequence. Artists may pick up the orders directly from those bins, or the orders may be distributed to artists by the leadpersons or shift supervisor.

In order to create the ads, **pre-press artists** use a computer software program called Multi-Ad Creator. Artists (also known as "desktop publishers") are classified into four different skills levels, known as DTP I, DTP II, DTP III and DTP IV. DTP I artists are trainees, who only repeat ads exactly as the ads ran in previous editions. DTP II artists are more familiar with Multi-Ad Creator, and can insert new copy into pre-existing ad layouts. DTP III artists, who constitute the bulk of the artists, create ads

facility is approximately 110 miles away from Hicksville.

from scratch, including the use of text, graphics, logos and some colors. Finally, a smaller group of DTP IV artists use more advanced software, for example, to do four-color ads and to scan graphics into the system.

All artists use the same type of computers. The artists' computers at Miller Place are connected to the same local area network, which is attached to several file servers. Each satellite office is also attached to the same file servers at Miller Place through a "T-1" line, which is a special data-transmission line used for creating wide-area networks. Artists at all locations must also save the ads using the same computer "conventions," so that the ads can be checked by the same automatic checking process.

After artists at Miller Place have created the ads, they print out black and white composites of the ads, for the **proofreaders** to proofread. If proofreaders find any errors, they must ask artists to correct the errors. A proofreader may send an ad back for correction to the same artist who created it, if possible, but since proofreaders often read ads that were created on the previous shift, the same artist may not be available.

MacNish testified that any artist may be called upon to correct any ad.

Once the ads are completed and corrected in the computer system, all the ads for a particular publication or "book" are collected into an encapsulated post script ("EPS") file in one of the servers at Miller Place. **Pagimators** then use their computers and their own judgment to paginate each publication, i.e., determining which ads fall on which pages and determining the order of the pages, within the Employer's pre-established "style guide" for each publication. At some point, the **book checkers** must compare the final EPS file to the initial "dump" of data for a particular book, to make sure the final version contains all the ads as required. If the final version does not match, then a book

checker (or in some cases a paginator acting as a book checker) must go back to the artists, leadperson or shift supervisor to correct the problem.

After the final EPS check is complete and the book checker confirms that the "book" is ready, the paginator sends the book in electronic form to the **electronic imagers** (also known as image setters). The electronic imagers use equipment (called Raster Image Processing or "RIP" computers) to turn the computerized images into film negatives or "flats," one negative for each page of the book. The imagers' duties include operating and monitoring the RIP equipment, adjusting the chemicals needed for negative-development, and changing the film. Electronic imagers wear safety gear, such as gloves and eye shields, when they work with chemicals.

Finally, the negatives are sent either to the Employer's plate-makers to make the plates necessary for printing, or to subcontractors who will print the books.

One pre-press employee, Barbara Brooks, was identified as an **error tracker**. MacNish testified that she uses a spreadsheet program created by the Employer's information systems ("I.S.") department to track where any errors were made. The error tracker, who is listed in the Employer's organizational chart as working under the day-shift proofreading leadperson, tracks errors occurring in any department (i.e., sales, pre-press, press) and at any location.

At the Miller Place facility, the pre-press artists, traffic employees, proofreaders, paginators and book checkers all work on the second floor. The proofreaders work in an area behind some dividers so that they can read in relative quiet. Most of these second-floor pre-press employees work in one of three shifts: the day shift (8:00 AM to 4:00 PM), the night shift (4:00 PM to 12:00 midnight) or the overnight shift (12:00 midnight

to 8:00 AM). However, there are two paginators and three artists who work an extended day shift from 8:00 AM to 6:00 PM, and an unspecified number of employees who work a special "overlap" shift, from 6:00 PM to 4:00 AM, to accommodate a certain deadline for This Week.

The electronic imagers work on the first floor of the Miller Place facility, in the same room as the plate-makers. They work on different shifts than the second floor employees, although MacNish did not recall the shifts exactly. MacNish testified that electronic imagers do not go to the second floor in the normal course of their work. During cross examination, he acknowledged that an artist might go down to the electronic imagers' first-floor room, for example, to drop off an order form related to a "print and deliver" piece. (A "P & D" is a free-standing piece the size of a page, which is inserted into the book without going through a paginator.) However, MacNish denied that artists go to the first floor to retrieve any negatives. MacNish also stated that electronic imagers do not attend the same weekly meetings that artists, proofreaders, paginators and traffic employees attend at Miller Place.

As indicated on the Employer's organizational chart for the pre-press department (Er. Ex. 1),⁹ there are leadpersons for each subgroup of employees for each shift, including the artists' leadpersons, traffic leadpersons, proofreading leadpersons, paginators' leadpersons and the electronic imagers' leadpersons (indicated as "prep"

⁹ Er. Ex. 1 shows all the pre-press employees who work under pre-press manager Dean Armbruster. Employees with a "TW" designation after their name work on This Week publications at West John Street; the "YK" initials designate Yankee Trader in Port Jefferson; and the "MK" initials designate Marketeer in Brooklyn. Employees with no designation after their name on Er. Ex. 1 work at the Miller Place facility. It should be noted that a proofreader at West John Street, Louise Print, was inadvertently omitted from Er. Ex. 1.

leads).¹⁰ All the pre-press leadpersons report to their respective shift supervisors: Donna Polomini (day shift supervisor), Rich Cusick (night shift supervisor) and Dave Schiedler (overnight shift supervisor). As discussed below in more detail, some leadpersons and shift supervisors supervise employees at more than one facility (Miller Place and the satellite facilities). The manager of the entire pre-press department, encompassing the Employer's four New York facilities, is Dean Armbruster. MacNish, who now works as project manager, reports directly to Armbruster.

In addition to all of the pre-press employees described above, the Employer also employs a DPT IV artist, Katherine Miller, in the marketing department at Miller Place. The marketing department is located on the second floor at Miller Place, across the hallway from the pre-press department. The marketing-department artist uses the same type of equipment as the pre-press artists, but she creates ads for large accounts (such as national accounts that run ads in multiple DSA editions) and "house" ads that promote the company itself. She works during the day shift. The marketing-department artist reports both to the marketing director, Janice DeSamon, and to the pre-press day-shift supervisor, Donna Polomini.

¹⁰ The "prep" leadpersons who supervise electronic imagers also supervise the Employer's plate-makers, who work in the same "prep" room. As discussed in connection with Case No. 29-RC-9370, the Employer intends to subcontract production work and to lay off the plate-makers and other production employees.

The satellite facilities

As noted above, pre-press artists at all the facilities involved herein use the same computers with the same Multi-Ad Creator software, and are attached to the same file servers at Miller Place through the T-1 data line. In this way, different steps of the ad-creation process can occur at different facilities, with data being electronically transferred between the facilities. For example, ads that are created and proofread at West John Street for This Week are later paginated and electronically "imaged" at Miller Place. None of the New York satellites (West John Street, Port Jefferson and Brooklyn) employs paginators or electronic imagers, so those steps must ultimately occur at Miller Place. (The New Jersey satellite will be discussed separately below.) The New York satellite facilities are generally open from 9:00 AM to 5:00 PM, Mondays through Fridays.

As noted earlier, DSA creates a total of 5,000 to 6,000 ads per week. MacNish testified that day-shift supervisor Polomini makes overall decisions regarding the pre-press workflow among the facilities. For example, if the number of proofs coming in to Miller Place is high, Polomini may tell the traffic employees (or sales support employees who perform some analogous trafficking functions) to start diverting proofs to artists at other facilities. As another example, Polomini may decide that artists at one facility must perform a certain category of work (proofs, P & D ads, or whatever the local sales employees need them to do). Polomini generally coordinates the workflow via the leadpersons or traffic employees, although on some occasions she assigns work directly to an artist. MacNish estimated that Polomini and her leadpersons at Miller Place assign about 10% of work done at satellite facilities *directly* to the artists there.

Port Jefferson (Yankee Trader)

The Employer employs four pre-press artists (Gail Laskowski, Grace Depaolo, Sandra Graf and Linda Pratt) at the Port Jefferson facility. All the ads from Port Jefferson are proofread by proofreaders at Miller Place, corrected by artists at Miller Place, paginated by paginators at Miller Place and made into negatives by electronic imagers at Miller Place. There is no leadperson at Port Jefferson for these four artists. They report to day-shift supervisor Donna Polomini at Miller Place or, if they cannot reach Polomini, they report to one of the artist leadpersons at Miller Place (Jennifer Murphy or Noelle Bongiorno). MacNish testified that, if there is a pagination problem at Miller Place requiring correction by the artists, one of the leadpersons at Miller Place contacts the artists at Port Jefferson. MacNish testified that the Port Jefferson artists have daily contact with Miller Place, such as by telephone or electronic mail ("e-mail"). MacNish physically goes to the Port Jefferson facility about 10 times per year.

One of the Port Jefferson artists, Gail Laskowski, used to work at a This Week office in Patchogue, New York, which is now closed. She worked at the Miller Place facility for two weeks in August 1999, in order to learn the Multi-Ad Creator program. Then she began working at the Port Jefferson facility (Yankee Trader) later in August 1999. Day-shift supervisor Polomini decided to assign a large, complicated piece to Laskowski (a DTP IV artist) to do on a regular basis. MacNish testified that this assignment occupies about 50% of Laskowski's time. Another Port Jefferson artist, Sandra Graf, used to work at the Miller Place facility, which is in western Long Island. When Graf moved her residence to eastern Long Island, the Employer offered her a position at the Port Jefferson facility, where she permanently transferred in August or

September 1999. Nevertheless, Graf regularly goes back to Miller Place to perform 8 hours per week of overtime work.¹¹ According to Er. Ex. 7, two contingent artists who used to work at Port Jefferson (Karen Paoli and Debbie Tucker) permanently transferred to Miller Place in September 1999, but the circumstances were not explained on the record.

Brooklyn (Marketeer-Pennysaver)

The Brooklyn facility employs four pre-press artists (Nettie Neeman, Edison Oliver, Wendy Ruocco and Phyllis Tolendini) and one traffic employee (Judith Garcia). There is no proofreader at the Brooklyn facility. All ads created in Brooklyn are proofread, corrected, paginated and imaged at Miller Place.

MacNish testified that the Brooklyn facility is in contact with the Miller Place facility several times per day. For some reason, the Brooklyn deadlines are particularly "tight," and Miller Place must often hold books from being finished while waiting for the Brooklyn ads. As a result, the Brooklyn artists need to notify paginators or the pre-press supervisor at Miller Place when their ads are done, so that Miller Place can create the EPS file and finish the book.

There is no pre-press leadperson or supervisor at the Brooklyn facility. The artists' work is assigned by the sales department manager in Brooklyn and/or by Polomini at Miller Place. For example, Polomini assigned an important Marketeer customer, who is allowed to submit its ad after the normal deadline, to artist Wendy Ruocco. Ruocco must finish that customer's ad every Wednesday, and keep Miller

¹¹ As noted above, the satellite facilities are open Mondays through Fridays, 9:00 AM to 5:00 PM, whereas the Miller Place facility is open 24 hours per day, 7 days per week. MacNish explained that, during busy times, the Employer asks artists from the satellite facilities to come work overtime hours at

Place posted as to how long the ad is going to take. Pre-press employees in Brooklyn call in sick to the office manager there, who handles the time cards, but they must coordinate their vacations through Miller Place.¹²

In approximately November 1999, MacNish (whose office is at Miller Place) gave a verbal warning to Brooklyn artist Nettie Neeman. Although he had taught Neeman how to save certain graphics, Neeman continued to save them incorrectly. MacNish warned Neeman that if she continued to make the same error, he would have to give her a written warning. (Although MacNish testified generally that he goes to the Brooklyn facility every other month, it is not clear whether he gave Neeman the warning in person or on the telephone.) MacNish also stated that day-shift leadpersons from Miller Place have given written warnings to employees in Brooklyn, although he did not give any specific details.

The Brooklyn facility also employs two **classified-ad artists** (John Herndon and John Saparano).¹³ They work on the same floor as the pre-press artists at the Brooklyn facility, but in a separate classified-department office. They report both to the classified-ad manager in Brooklyn (whose name MacNish could not recall) and to Donna Polomini at Miller Place. These artists create classified ads using the same equipment and the same software as the pre-press artists. They learned Multi-Ad Creator from Rich Cusick, who currently works as the night-shift supervisor at Miller

Miller Place. Artists usually punch a time card at the satellite facilities, but when they work overtime at Miller Place, a supervisor from Miller Place hand-writes the overtime hours on their time card.

¹² MacNish testified that pre-press employees in Brooklyn must coordinate their vacations via shift supervisor Polomini, whereas Annuziata testified generally that vacations are scheduled by department managers. It is not clear whether pre-press manager Armbruster plays any role in supervising the pre-press employees' vacations.

Place, but who used to work at the Brooklyn facility. The classified-ad artists' equipment is connected to the same file servers at Miller Place. Their ads are proofread at Miller Place, corrected by artists at Miller Place, and paginated by paginators at Miller Place. MacNish testified that the Brooklyn facility (which was acquired by Newport Media in 1998) still has its own pagination system, although it is not clear from the record how this actually affects the pagination process or other aspects of work flow between Brooklyn and Miller Place. In any event, MacNish also testified that the Employer is planning in early 2000 to install the same classified pagination system in Brooklyn as the one used at Miller Place.

There was no evidence of transfers between Brooklyn and Miller Place in 1999, although there were some transfers in late 1998, when DSA's predecessor took over the Marketeer publications.¹⁴

West John Street (This Week)

As mentioned above, the West John Street facility in Hicksville is a 10-minute drive from Miller Place in Hicksville. In mid-1999, after DSA acquired the This Week publications, virtually all the pre-press employees at West John Street were transferred to Miller Place. Most of the transfers were permanent, although some turned out to be temporary.

Specifically, MacNish testified that in May 1999, there were a few employees (including artists Kerry Gibson and Paul Mezzacapo) who went "back and forth" between the two facilities during a preliminary transition period. Then, starting in June

¹³ The Petitioner seeks to include only pre-press artists at Miller Place in the petitioned-for unit, not artists in other departments.

1999, the Employer started a process of "absorbing" all the West John Street employees into Miller Place. From June to November 1999, approximately four pre-press leadpersons (traffic lead Scott Maltese, paginator lead Susan Small, traffic/proofreading leads Elizabeth Sheinin and Diane McMillan), 15 artists, 5 book checkers, 4 paginators, and 4 proofreaders transferred from West John Street to Miller Place.¹⁵ At that time, all the employees from West John Street received training in Multi-Ad Creator, and in the computer "conventions" the Employer uses (e.g., how the file servers are organized). At some point later in the process of integrating the two facilities, the Employer decided, after all, that it needed to keep a few pre-press artists on location at West John Street, in order to work more closely with the sales employees there. As a result, three artists were transferred back to West John Street in late 1999. Similarly, a traffic employee (Jill Kenny) who transferred from West John Street to Miller Place in September 1999 later transferred back to West John Street in November 1999. Another temporary transfer included artist Jason Santana, who originally worked at Miller Place, then transferred to West John Street in June 1999, then transferred back to Miller Place in September 1999.

Thus, as of the time of the hearing herein, the West John Street facility employed three pre-press artists (Cindy Kaplan, Linda Nicol and Carol Sanders), one traffic employee (Jill Kenny) and one proofreader (Louise Print), but no paginators, book checkers or electronic imagers. It appears that some This Week ads are created at West John Street and some others are created at Miller Place, although it is not clear from the

¹⁴ As mentioned above, evidence of employee transfers in 1998 under DSA's predecessor (Newport Media) were excluded from the record. A list of such transfers (Er. Ex. 8) was placed in the rejected exhibits file.

record how that determination is made. In any event, the artists at West John Street use the same equipment and software to create ads. The ads are generally proofread by Louise Print at West John Street, but they are paginated, checked and imaged at Miller Place. The computers at West John Street are connected to the file servers at Miller Place, via the T-1 data line. As stated above in connection with the Port Jefferson facility, if Miller Place has any pagination problems with This Week, the leadpersons or supervisor at Miller Place may need to contact the artists at West John Street for correction.

There are no pre-press leadpersons at West John Street. The pre-press employees there report to the day-shift leadpersons (Murphy and Bongiorno) at Miller Place and to shift supervisor Polomini at Miller Place.

MacNish gave the following examples of interaction between pre-press employees at the two Hicksville facilities. First of all, one of the West John Street artists (Linda Nicol) regularly goes to Miller Place to work overtime hours. Second, although the West John Street facility has its own traffic employee (Jill Kenny), other employees from Miller Place occasionally go to West John Street to help "fill in." Specifically, MacNish testified that traffic leadperson Scott Maltese and proofreader Jeff Resto (both of whom transferred from West John Street to Miller Place in mid-1999) go back to West John Street to help perform traffic functions. Third, MacNish testified that whenever the T-1 data line between the facilities goes down, employees from West John Street must work at Miller Place. For example, when the T-1 line went down during the week of December 13, 1999, approximately 11 employees from West John Street went

¹⁵ See Er. Ex. 7, list of transfers in 1999.

to work alongside the day-shift employees at Miller Place for three days. The T-1 line has also gone down on other occasions, although not for so long. One time, when the T-1 line went down for a few hours during the summer of 1999, a few employees from West John Street went to work at Miller Place for a half-day.¹⁶ Fourth, MacNish testified that, several times in 1999 when the Employer was having problems with its messengers, employees from Miller Place (such as artist Syndee Elster) had to pick up work from the West John Street facility. Finally, MacNish testified that artists from West John Street may "possibly" go to artists' meetings at Miller Place, but he did not give any specific examples to indicate whether such joint meetings have actually occurred.

In addition to the West John Street pre-press employees described above, the Employer also employs 4 **classified-ad artists** at West John Street. These 4 artists create classified ads for This Week publications, using the same equipment and programs as the pre-press artists. MacNish testified that, in August 1999, he taught the classified artists at West John Street how to use Multi-Ad Creator. Their ads "reside" in the file server at Miller Place. The classified ads are proofread either by Louise Print at West John Street, or by proofreaders at Miller Place, depending on their schedules. It appears from the record that This Week classified ads are also paginated at Miller Place.¹⁷ MacNish testified that the classified-ad artists at West John Street report to the

¹⁶ By contrast, although the T-1 line has also gone down between Miller Place and Brooklyn, Port Jefferson and New Jersey, employees at those facilities did not travel to work at Miller Place on those occasions.

¹⁷ MacNish gave somewhat confusing testimony regarding This Week's use of the "ATEC system" (Tr. 188). It appears that West John Street's classified-ad section may have its own pagination system, but it is not clear how this actually affects the pagination process, or the work flow between West John Street and Miller Place in this regard.

classified manager there (Irene, last name unknown), to a classified leadperson there (Ms. Fucci), and to Donna Polomini at Miller Place.

Finally, the Employer also employs 7 artists who work on This Week's Value Magazine/Pocket Mailer for "coupon mailers" and other special products which are printed separately from the weekly publications. (For the sake of simplicity, these artists are called "**special-project artists**" herein.) They report to special projects supervisor Lisa Schiavone at West John Street. They create ads using Multi-Ad Creator, which MacNish taught them, as well as another program called Cork Express. Their work is proofread by Louise Print at West John Street. Their work is similar to the ads created by pre-press artists, and is tied to the same file server at Miller Place. However, their work does not go into the same "books" for publication. It is not clear from the record whether their work is paginated. MacNish testified that there is a great deal of "work flow" among the special-project artists at West John Street and the pre-press artists at Miller Place. When the special-project artists' workload is too heavy, artists from Miller Place (e.g., Jason Santana) help do the coupon work. Similarly, when the Miller Place workload is too heavy, special-project artists may do some pre-press work. For example, in November 1999, special-project artists from West John Street were told to report to Miller Place one day to help there. In addition, both the classified artists and special-project artists from West John Street went to Miller Place for three days in December when the T-1 line went down. Two of the special-project artists at West John Street (Barry Silver and Marcus DaSiva) used to work at Miller Place, but permanently transferred to West John Street in August 1999.

Cherry Hill, New Jersey (Shopper's Guide)

The Employer's facility in Cherry Hill, New Jersey, which is located more than 100 miles from the Hicksville facilities, employs 12 artists, 1 proofreader and 1 paginator. For some reason, their department is called the "composing" department rather than "pre-press," but it performs the same functions as pre-press described above. The composing supervisor at the New Jersey facility is Ralph Barclay, who reports to general manager Mile Lawless. (See Er. Ex. 10, organizational chart for New Jersey facility.) There is no evidence that the New Jersey employees report to the pre-press leadpersons, shift supervisors or pre-press manager at Miller Place. The New Jersey facility operates in two shifts.

Shopper's Guide ads that are created by artists in New Jersey are also proofread in New Jersey, and paginated in New Jersey. MacNish did not know who performs the traffic function in New Jersey. MacNish explained that since the New Jersey facility has its own pagination program (called Managing Editor), it electronically sends individual pages to Miller Place for imposition onto individual negatives or "flats." If there are any problems with that process, the electronic imagers at Miller Place may contact the New Jersey facility to solve the problems. Other than the paginated ads from New Jersey being imaged at Miller Place, however, there is no other evidence of integrated work flow between those two facilities. There is no evidence that pre-press artists, proofreaders, paginators or book checkers from Miller Place play any role in the ads generated from New Jersey. There is no evidence that pre-press supervisors at Miller Place assign work to New Jersey employees, or discipline them, or approve their vacation schedules. There is no evidence that employees have transferred between the

New Jersey facility and others, or that employees from New Jersey work overtime at Miller Place.

In addition to all of the above testimony from MacNish regarding operations at the various facilities, senior vice president/chief financial officer Richard Czark also testified generally regarding the Employer's future plans for the facilities. Specifically, after the Employer "outsources" its production work to subcontractors and more space becomes available on the first floor of the Miller Place facility, and after the production areas are renovated, the Employer intends to close the West John Street facility and to move all the West John Street employees to Miller Place. Czark estimated that the two Hicksville facilities will be consolidated in the second quarter of 2000. Czark also testified that the Employer plans to introduce a new "ad management" software system (Cascade) at all the facilities, to replace the various existing programs.¹⁸ Czark stated that, ideally, the Employer would like to perform all the ad-creation work at a central location, while maintaining sales employees at the satellite offices. Czark testified that the Employer eventually plans to move all the artists from Port Jefferson and Brooklyn (and perhaps New Jersey) to Miller Place.

Other community of interest factors; human resource functions

The Employer presented evidence that employees at the different facilities share common training. Specifically, as indicated above, the Employer has trained employees at all the facilities to use the same Multi-Ad Creator program and the same computer conventions, so that work can be electronically transferred from facility to facility. MacNish, who worked as the Employer's training manager from June to November

¹⁸ For example, as mentioned above, some satellite facilities still have different pagination systems.

1999, stated that in some cases employees from the satellite facilities came to Miller Place for training (such as when artist Gail Laskowski learned Multi-Ad Creator at Miller Place for two weeks in August 1999 before she transferred to the Port Jefferson facility). In other cases, MacNish or other training personnel from Miller Place traveled to the satellite facilities to train employees there.

The Employer also has a centralized information systems ("I.S.") department, located at Miller Place, which installs and maintains the computer hardware and software at all the facilities. The I.S. department helps to solve computer problems that arise, either by telephoning the satellite facilities or by physically going to the facilities.

The record contained the following evidence regarding employees' wages. Traffic employees earn \$11 to \$14 per hour; proofreaders earn \$9 to \$14 per hour; paginators earn \$13-16 per hour. Pre-press artists' wages fall into the following ranges based on their "DTP" levels: DTP I and II artists earn \$9 to \$12 per hour; DTP III artists earn \$11.50 to \$14.50 per hour; and DTP IV artists earn \$14 to \$16 per hour. (MacNish testified that most artists at the satellite facilities are at the DTP IV level.) Electronic imagers earn \$9 to \$12 per hour as trainees, then \$12 to \$17 per hour thereafter. Night shift and overnight shift employees at Miller Place earn somewhat higher rates than day-shift employees. MacNish did not know whether the wages of marketing-department artist Katherine Miller were the same as other DTP IV artists.

Employees at all the facilities are eligible for the same benefits, including a 401(k) plan, tuition reimbursement, paid vacation time, holidays and sick leave. Employees at all facilities are eligible to choose a medical plan, although certain health maintenance organizations in New York are not available to employees in New Jersey.

There is one personnel policy guidebook, which the Employer distributed to employees at all facilities in mid-1999. Employees from all the facilities were invited to the same Christmas party in 1999.

The Employer's human resources manager, Susan Annuziata, works primarily at Miller Place, but also has an office at the West John Street facility. She testified that the human resource functions for all facilities are centrally managed through her office. For example, as for hiring new employees, her office writes the "help wanted" ads, interviews candidates, checks their references and puts them on the payroll. Annuziata stated that there is a single application process for applicants at all locations, including a drug test. The Employer posts notices of all job openings at every facility. If an employee at one facility wants to apply for a position at another facility, he or she submits an internal "new position" application form.

Annuziata also testified that wage rates for the various job classifications are determined by her office and the Employer's finance manager. The time records and payroll for all facilities are centrally processed at the Miller Place facility.

Annuziata's testimony regarding the discipline and discharge process was somewhat vague. Annuziata testified that if a manager at any location "is having a problem with an employee," she helps the manager determine "how to proceed with that person" and then "works with the manager to work through that process." She stated that no employees can be terminated without her "involvement." For example, she was "involved" in the termination of a supervisor at the New Jersey facility. However, no specific details were given to indicate exactly who decides to discipline and discharge employees, such as whether her office ever rejects the recommendations of local

managers. Similarly, Annuziata testified generally that her office must approve supervisors' recommendations for wage increases and managers' recommendations for promotion, but she gave no specific examples.

Discussion

Electronic imagers

The Petitioner seeks to represent a unit of all pre-press employees at the Employer's Miller Place facility, including the eight electronic imagers. (There are no electronic imagers employed at the other facilities.) The Employer argues that it would be inappropriate to include the electronic imagers because they do not share a community of interest with the other pre-press employees. Specifically, the Employer's arguments include: (1) that their work of making film negatives does not involve the same skills or equipment as the creative work of other pre-press employees but, rather, is more tied to the mechanical plate-making process; (2) that electronic imagers work in the prep room, on a different floor of the Miller Place facility than the other pre-press employees; (3) that they are supervised by the prep leadpersons, who also supervise the platemakers but who do not supervise any second-floor pre-press employees; (4) that they work on different schedules; and (5) that there is little to no interchange or contact between electronic imagers and other pre-press employees.

It is well established that a certifiable bargaining unit need only be *an* appropriate unit, not the most appropriate unit. Morand Bros. Beverage Co., 91 NLRB 409 (1950), *enf'd.* 190 F.2d 576 (7th Cir. 1951), Omni-Dunfey Hotels, Inc., d/b/a Omni International Hotel of Detroit, 283 NLRB 475 (1987), P.J. Dick Contracting, 290 NLRB 150 (1988), Dezcon, Inc., 295 NLRB 109 (1989). The Board's task, therefore, is to determine whether the petitioned-for unit is an appropriate unit, even though it may not be the only appropriate unit or the "ultimate" unit.

Bearing these principles in mind, I find that a broad unit including all pre-press employees is appropriate. The pre-press employees are a distinct group with a separate identity, in terms of the Employer's departmental organization, their supervision and their function in the ad-creation process. MacNish's testimony and the Employer's own organizational chart (Er. Ex. 1) clearly show that the pre-press employees *including the electronic imagers* constitute a separate and distinct department. The Petitioner has not sought some arbitrary grouping of employees but, rather, has sought all employees of a department which has a logical and organizational coherence. As the department's name implies, it encompasses all stages of the production process before plate-making and printing --- from the artists' initial creation of the ads by computer, through the final conversion of the computerized images onto negatives. The electronic imagers' work is an integral part of that process, deriving *directly* from the computerized images created, corrected and paginated by other pre-press employees. The fact that other pre-press employees send the ad "books" to imagers electronically through the computers, resulting in little face-to-face contact, does not negate the close functional integration of their work.

Furthermore, the electronic imagers share common departmental supervision with the other pre-press employees, including the 3 shift supervisors, MacNish as project manager and Dean Armbruster as pre-press manager. The fact that they have their own leadpersons as immediate supervisors does not distinguish them, since other pre-press subgroups (artists, traffic employees, proofreaders and paginators), who indisputably share a community of interest, also have their own separate leadpersons.

The record also shows that electronic imagers' wage rates are similar to other pre-press employees, and that their benefits are identical.

Admittedly, the Employer has pointed out some factors which distinguish the electronic imagers from other pre-press employees. Those factors might arguably demonstrate that a small, separate unit of electronic imagers would also be *an* appropriate unit.¹⁹ However, those factors do not demonstrate such a strong disparity of interest, or such an arbitrary or incoherent grouping of employees, that including electronic imagers with other pre-press employees would be *inappropriate*. On the contrary, based on their departmental identity, their common departmental supervision and the close functional integration of their work, I find that it is appropriate to include the electronic imagers in a unit with other pre-press employees, as the Petitioner has sought.

Cases cited by the Employer are distinguishable. For example, in American-Republican, Inc., 171 NLRB 43 (1968), although the Board found a unit limited to newspaper photoengravers (and excluding proofreaders) appropriate, its finding was based primarily on the photoengravers' status as a traditional craft unit in the newspaper industry. The Employer herein does not contend that the electronic imagers constitute a craft unit and, indeed, the record would not support such a contention. In any event, more recent Board decisions have noted a lessening influence of the craft tradition in the newspaper industry, due in part to "the lessening of skill requirements due to technological changes, such as the growing prominence of computers." American

¹⁹ One could also argue that including electronic imagers in unit with plate-makers and other production employees on the first floor of the Miller Place facility would also be appropriate. However, as noted above, the Employer plans to subcontract its production work and lay off most of its production

Publishing Co. of Michigan, d/b/a The Evening News, 308 NLRB 563, 567 (1992). In that case, the Board noted the close functional integration of the employer's operations, including that the work of the editorial department "flow[ed]" directly into the composing department, and that both editorial and composing employees used computers in their work. Id.

Accordingly, based on the foregoing, I find it appropriate to include the Employer's electronic imagers in a bargaining unit with other pre-press employees.

Single-site versus multi-site issue for pre-press employees

As discussed above, a certifiable bargaining unit need only be *an* appropriate unit, not the most appropriate unit. P.J. Dick Contracting, supra. Whenever a labor organization seeks to represent employees at a single location of a multi-location employer, the Board generally presumes the single-location unit to be appropriate, even though a broader unit might also be appropriate. A multi-location employer who asserts that the single-location unit is *inappropriate* must rebut the presumption, for example, by showing that the single plant is so integrated with the other plants as to lose its separate identity. Kendall Co., 184 NLRB 847 (1970). The relevant factors include the geographical distance between the facilities; the extent of interchange and contact among employees at the different facilities; their functional integration; the extent of centralization in management and supervision, especially with regard to labor relations (hiring, firing, affecting the terms of employment); and the history of collective bargaining.

employees. The issue of production employees is still pending in Case Nos. 29-RC-9370, 29-CA-23104 and 29-CA-23122, and cannot be resolved in this Decision.

In the instant case, I agree with the Employer's contention that a bargaining unit limited to the Miller Place facility, excluding pre-press employees at the Employer's other New York facilities, would be inappropriate, inasmuch as the four New York facilities' pre-press functions, supervision and management are sufficiently integrated to negate Miller Place's separate identity. However, I reject the Employer's contention that it would be inappropriate to exclude the New Jersey facility, which is far less integrated than the others.

First of all, the record shows that the pre-press employees at all four New York facilities (Miller Place, West John Street, Port Jefferson and Brooklyn) share common day-to-day supervision. Significantly, *there are no pre-press leadpersons or shift supervisors at any of those satellite offices*. Rather, pre-press employees at the satellite facilities report directly to day-shift supervisor Polomini or the day-shift leadpersons at Miller Place. As for work assignments, MacNish testified that Polomini decides the overall work flow of pre-press between the facilities. If the workload at one facility is too high, for example, Polomini may decide to shift certain categories of work to other facilities. Polomini also assigns work to individual artists at the satellite facilities in some instances. Of course, given the large volume of advertisements (5,000 to 6,000 per week), it would be impossible for Polomini to coordinate all the work assignments on an individual basis. Nevertheless, the record clearly shows that Polomini, acting through the lead persons at Miller Place and through the traffic employees in at least three facilities, supervises the pre-press work at all New York facilities from her office at Miller Place. Furthermore, the record also shows that pre-press employees at all facilities must coordinate their vacation requests via Miller Place. The record also

shows some evidence of employee discipline emanating from Miller Place to the satellite facilities, such as MacNish's warning to an artist at the Brooklyn facility.

More significantly, the record shows an extremely high degree of functional integration among the facilities. All pre-press employees use the same computers, computer programs and conventions, and are connected by the T-1 data line to the same file servers. In this way, the pre-press work can -- and does -- "flow" among the facilities. As noted above, all the ads created at the Port Jefferson and Brooklyn facilities are proofread, paginated, checked and converted to negative images at the Miller Place facility. Ads created at the West John Street facility for This Week may be proofread by the proofreader at West John Street (Louise Print), or by proofreaders at Miller Place, depending on their schedules. In either case, the West John Street ads are eventually paginated by the paginators at Miller Place, checked by the book checkers at Miller Place, and turned into negatives by the electronic imagers at Miller Place. If any problems arise in these later stages of the ad-creation process, leadpersons at Miller Place may have to contact artists at the satellite facilities to resolve the problems. Thus, although the advertisement orders are initially generated for the separate publications associated with each New York location (e.g., This Week at West John Street, Yankee Trader in Port Jefferson, Marketeer in Brooklyn), the entire pre-press operation -- from the creation of the ads through their conversion into negatives -- constitutes a highly-integrated, computer-connected work-flow process among the facilities. See Neodata Product/Distribution, Inc., 312 NLRB 987 (1993)(single-facility unit inappropriate where two facilities use computer system as part of a closely-integrated "order flow process").

In order to maintain this integrated work-flow process, the New York facilities must stay in close contact with each other, both by telephone and by e-mail. MacNish testified that the artists at Port Jefferson are in daily contact with Miller Place, and that the Brooklyn facility has contact several times per day with Miller Place. Since the Brooklyn facility has particularly tight deadlines, and since Miller Place must often "hold" books from being finished while waiting for the last-minute ads from Brooklyn, the artists there must notify Miller Place as soon as their ads are ready. Even in the absence of face-to-face contact, the Board has found that frequent telephonic or other contact among facilities may demonstrate a closely-integrated operation. Neodata, supra, 312 NRLB at 988 (computerized communication; daily contact by telephone and facsimile transmissions); Second Federal Savings and Loan, 266 NRLB 204 (1983) (bank branches' constant communications with main office through computers, telephone and telecopying equipment).

As noted above, the West John Street, Port Jefferson and Brooklyn facilities are, respectively, a 10-minute, 35-minute and 45-minute drive from Miller Place. The record shows some evidence of interchange and face-to-face contact among employees at the facilities. For example, an employee from Miller Place (Jeff Resto) occasionally goes to West John Street, to help fill in for the traffic employee there (Jill Kenny). Employees from West John Street have gone to work temporarily at Miller Place on occasions when the T-1 line went down between the two facilities. Artists from Miller Place have physically gone to West John Street to pick up work when the Employer was having problems with its messengers. Employees from both West John Street and Port Jefferson regularly work overtime at the Miller Place facility. And artists have been

assigned to Miller Place temporarily for training purposes, and have subsequently been transferred to the West John Street and Port Jefferson facilities. There were also numerous permanent transfers among the New York facilities, especially between West John Street and Miller Place in 1999.²⁰

Finally, the record indicates that the Employer's satellite facilities have little to no independent control over such labor-relations matters as hiring employees and setting their wage rates. It appears from Annuziata's testimony that the human resource office handles the hiring of new employees. The human resource office and the Employer's finance manager jointly determine wage rates for the various job classifications. The human resource office must also approve all wage increases and promotions. Benefits are the same for employees at all the New York locations, and employees are subject to the same personnel policies and guidebook. Furthermore, the Employer's training and information systems operate in a centralized fashion.

Based on all the foregoing -- especially the lack of pre-press supervisors at the satellite facilities, the central supervision and coordination of pre-press operations from Miller Place, the highly integrated, computerized ad-creation process flowing among the facilities, and the centralized management of personnel matters -- I conclude that the Employer has rebutted the presumption favoring a single-facility bargaining unit.²¹

²⁰ The Board places less weight on permanent transfers, as compared to temporary transfers or re-assignments, when making unit determinations. General Mills Restaurants, Inc., d/b/a Red Lobster, 300 NLRB 908, 911 (1990); Passavant Retirement and Health Care Center, Inc., 313 NLRB 1216, 1218 n.2 (1994).

²¹ In finding a multi-site unit to be appropriate, this Decision does not rely on Czark's speculative testimony regarding the Employer's future plans to move all the ad-creation work from West John Street, Port Jefferson and Brooklyn to the Miller Place facility later this year.

Although the geographical distances separating the Employer's New York facilities are not inconsiderable, I find that the pre-press operation at Miller Place cannot be separated from the overall, integrated pre-press process for *all* the Employer's New York publications which are ultimately paginated and imaged at Miller Place. The facts herein are analogous to those in Neodata, supra, where the functions of employees at two separate facilities were closely integrated and linked to a centralized computer system. Employees at the two facilities used the same skills and performed the same functions; had frequent contact with each other, including by telephone and facsimile; and, in some instances, were supervised by the same immediate supervisor, and were controlled by centralized labor relations policy. The Board found that the two facilities effectively operated as a single unit, using a single "order flow process," and that the single-facility presumption had been rebutted. Likewise, in the instant case, the pre-press work at the Employer's four facilities in New York is part of a single, highly-integrated ad-creation process, from which Miller Place alone does not maintain a separate identity.

Cases cited by the Petitioner on this score are distinguishable. For example, the facilities involved in Rental Uniform Service, Inc., 330 NLRB No. 44 (1999), each had their own manager and supervisors, and were found to have significant local autonomy over labor relations. Employees at each facility were permanently assigned to one facility, with no evidence of functional integration or interchange between the facilities. The Board in Rental Uniform, explicitly distinguishing Neodata, found that employees at the petitioned-for facility worked "wholly independent of, and with virtually no contact with," employees at the other facilities. Id. at n.9. By contrast, employees in the

instant case, as in Neodata, are part of an integrated work process, in which pre-press work started at one facility directly interconnects to pre-press work at another facility, requiring centralized supervision and frequent communications among the facilities.

In short, I find that it would be inappropriate to exclude the pre-press employees at the Employer's West John Street, Port Jefferson and Brooklyn facilities from a bargaining unit with the pre-press employees at Miller Place. However, I do not find it inappropriate to exclude the "composing" employees at the New Jersey facility from the unit. The New Jersey facility has not only its own proofreader and paginator, but also its own supervisor and manager. There is no evidence that the supervisors (e.g., Polomini) or the pre-press manager (Armbruster) at Miller Place supervise the operations in New Jersey. Contact between the two facilities appears to be limited to the pre-paginated books from New Jersey being electronically imaged at Miller Place. The New Jersey facility is located more than 100 miles from Miller Place, and there is no evidence of transfers or interchange between the two.

Artists in other departments than pre-press

Finally, the parties dispute whether artists in other departments must be included with the pre-press employees.

The record indicates that there is one artist, Katherine Miller, who works in the marketing department at Miller Place, across the hallway from the pre-press artists. She is a DTP IV artist, and performs the same work as pre-press artists using the same equipment. She reports both to pre-press supervisor Polomini and to the marketing director. I find that it would be inappropriate to exclude this artist from a bargaining unit that includes all the other artists at Miller Place, inasmuch as she performs the same

type of work in almost the identical job classification. The mere fact that she works across the hallway and reports, in part, to the marketing director, does not make her interests so disparate from other artists as to warrant her exclusion from the unit. Furthermore, since Miller appears to be the only employee in her classification, her exclusion from a broader unit including other artists might effectively deny her the opportunity to be represented in any collective bargaining, a result which the Board disfavors. Vecellio & Grogan, Inc., 231 NLRB 136 (1977). I therefore include the marketing-department artist in the bargaining unit.

For the same reasons given above regarding the integrated nature of the Employer's ad-creation process, I will also include the classified-ad artists at the Brooklyn and West John Street facilities, and the special-project artists at West John Street, in the multi-facility unit with pre-press artists and other employees. The record indicates that these artists also use the same skills, equipment and programs to create their ads. Their work is part of the same "work flow" with employees in the other departments, and is connected to the same file servers. For example, the classified ads created in Brooklyn are proofread, corrected and paginated at Miller Place. The classified ads created at West John Street are paginated at West John Street by the same proofreader (Print) who also proofreads the pre-press work there, or by pre-press proofreaders at Miller Place. Then the classified ads from West John Street are sent to Miller Place for pagination. Similarly, the coupons and other special products created at West John Street are proofread by Print, although their work does not ultimately go into the same "books" for publication as the pre-press artists. MacNish also testified that there is a great deal of "work flow" among the special-project artists at West John Street

and the pre-press artists at Miller Place. When the special-project artists' workload is too heavy, artists from Miller Place help do the coupon work and, conversely, when the Miller Place workload is too heavy, special-project artists may do some pre-press work. (For example, in November 1999, special-project artists from West John Street were told to report to Miller Place one day to help there.) In addition, both the classified artists and special-project artists from West John Street went to Miller Place for three days in December 1999 when the T-1 line went down. Thus, although the classified artists and special-project artists work in separate departments and have separate supervisors, many other factors warrant their inclusion in a unit with pre-press employees, including their common role in the ad-creation process, their common skills and functions as artists, their functional integration with other pre-press employees (such as proofreaders), some interchange with pre-press artists, and common wages and benefits. I therefore conclude that it would be inappropriate to exclude them from the multi-site unit with pre-press employees.

Accordingly, I hereby find that the following employees constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

All full-time and regular part-time²² artists (also known as desktop publishers), traffic employees, proofreaders, paginators, book checkers, error trackers, and electronic imagers employed in the pre-press department, marketing department, classified-ad department and special projects department at the Employer's facilities located at 250 Miller Place, Hicksville, New York; 600 West John Street, Hicksville, New

²² As noted above on p. 4, "contingent" employees are eligible to vote as regular part-time employees if they worked an average of at least 4 hours per week during the quarter preceding the date of this Decision.

York; Port Jefferson, New York; and Brooklyn, New York;²³ but excluding all other employees, production employees, sales employees, office clerical employees, professional employees, managerial employees, guards, leadpersons and other supervisors as defined in the Act. Notwithstanding that the unit found appropriate herein is larger than the originally-petitioned-for unit, the Petitioner has submitted an adequate showing of interest in the larger unit, warranting the continued processing of the instant petition.

DIRECTION OF ELECTION

An election by secret ballot shall be conducted by the undersigned among the employees in the unit found appropriate at the time and place set forth in the notice of election to be issued subsequently subject to the Board's Rules and Regulations. Eligible to vote are employees in the unit who were employed during the payroll period ending immediately preceding the date of this Decision, including employees who did not work during that period because they were ill, on vacation or temporarily laid off. Also eligible are employees engaged in an economic strike that commenced less than 12 months before the election date and who retained their status as such during the eligibility period and their replacements. Those in the military services of the United States who are employed in the unit may vote if they appear in person or at the polls. Ineligible to vote are employees who have quit or been discharged for cause since the designated payroll period, employees engaged in a strike who have been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date, and employees engaged in an economic strike which commenced more than 12 months before the election date and who have been permanently replaced. Those

²³ The street addresses of the Port Jefferson and Brooklyn facilities do not appear in the record. Those addresses can be added to the unit description at a later point in the proceedings (e.g., when the Notice of Election is sent).

eligible shall vote whether they desire to be represented for collective bargaining purposes by Graphic Communications International Union, Local 406, AFL-CIO.

LIST OF VOTERS

In order to assure that all eligible voters may have the opportunity to be informed of the issues in the exercise of the statutory right to vote, all parties to the election should have access to a list of voters and their addresses that may be used to communicate with them. Excelsior Underwear, Inc., 156 NLRB 1236 (1966); N.L.R.B. v. Wyman-Gordon Company, 394 U.S. 759 (1969). Accordingly, it is hereby directed that within 7 days of the date of this Decision, four (4) copies of an election eligibility list, containing the full names and addresses of all the eligible voters, shall be filed by the Employer with the undersigned who shall make the list available to all parties to the election. North Macon Health Care Facility, 315 NLRB 359 (1994). In order to be timely filed, such list must be received in the Regional Office, One MetroTech Center North-10th Floor (Corner of Jay Street and Myrtle Avenue), Brooklyn, New York 11201 on or before February 8, 2000. No extension of time to file the list may be granted, nor shall the filing of a request for review operate to stay the filing of such list except in extraordinary circumstances. Failure to comply with this requirement shall be grounds for setting aside the election whenever proper objections are filed.

NOTICES OF ELECTION

Please be advised that the Board has adopted a rule requiring that election notices be posted by the Employer at least three working days prior to an election. If the Employer has not received the notice of election at least five working days prior to the election date, please contact the Board Agent assigned to the case or the election clerk.

A party shall be estopped from objecting to the non-posting of notices if it is responsible for the non-posting. An Employer shall be deemed to have received copies of the election notices unless it notifies the Regional Office at least five working days prior to the commencement of the election that it has not received the notices. Club Demonstration Services, 317 NLRB 349 (1995). Failure of the Employer to comply with

these posting rules shall be grounds for setting aside the election whenever proper objections are filed.

RIGHT TO REQUEST REVIEW

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street, N.W., Washington, D.C. 20570. This request must be received by February 15th, 2000.

Dated at Brooklyn, New York, this 1st day of February, 2000.

/S/ ALVIN BLYER

Alvin Blyer
Regional Director, Region 29
National Labor Relations Board
One MetroTech Center North, 10th Floor
Brooklyn, New York 11201

440-1700
440-1740
440-3300

APPENDIX

The transcript is hereby amended as follows:

Page 1, caption: Case No. **29**-RC-9399, rather than 2-RC-9399.

Page 2, line 6: The attorney's name is Lisa "Barse Bernstein" rather than Lisa "Geraldson".

Page 2, line 17: "Bienstock" rather than "Beinstock".

Page 2, lines 18-19: Lilly & Bienstock's address is 300 Garden City Plaza, Garden City, New York 11530.

Page 3, line 5 et seq.: All references to Mark "Macnish" should be spelled "**MacNish**".

Page 7, line 3: "which" rather than "with".

Page 10, line 23: "Scott" Maltese, rather than "Scal".

Page 11, line 4: Section "2(11)" of the Act, rather than Section "211".

Page 12, line 17: "compromise" rather than "comprise".

Page 25, line 24 et seq.: All references to Donna "Pulmeny" or "Pulmeney" or "Pulmaney" should be spelled "**Polomini**".

Page 29, line 23: Linda "Nicol" rather than "Nicole".

Page 31, line 1: Grace "Depaolo" rather than "Paolo".

Page 31, line 7: Nettie "Neeman" rather than "Kneman";
 Wendy "Ruocco" rather than "Rouko";
 and Phyllis "Tolendini" rather than "Valenti".

Page 34, line 6: Linda "Furman" rather than "Ferman".

Page 34, line 17: Geraldine "Bandelt" rather than "Vandetto".

Page 76, line 15: "editions" rather than "additions".

Page 81, line 18 et seq.: All references to the "Petro" office should be spelled "**Patchogue**".

Page 81, line 21 et seq.: All references to "Quarom" should be spelled "**Coram**".

Page 82, line 13: "Antingone" Rowe, rather than "And Tigini".

Page 82, line 14: "And Barry" Silver, rather than "Annaberry".

Page 82, line 23 et seq.: All references to Lisa "Shiavone" should be spelled "**Schiavone**".

Page 85, line 18 et seq.: All references to Laura "Vutchen" and "Muchin" should be spelled "**Butchen**".

Page 100, line 2 et seq.: All references to David "Vorak" and "Deboric" should be spelled "**Dvorak**".

Page 100, line 2: "Krista Ericson" rather than "Chris Erickson".
and "Kerry" Gibson, rather than "Carey".

Page 100, line 3: "Joanie" Larson, rather than "Johnny".

Page 100, lines 18-19: "Elsie Virella", rather than "Osie Berella".

Page 122, line 17: Bryan "Dusini" rather than "Dasiva".

Page 136, line 1: Laura "Butchen" rather than "Booken".

Page 178, line 4: Carol "Gandarillas" rather than "Pandareas".

Page 178, line 13: Elizabeth "Sheinen" rather than "Schinen".

Page 178, line 18: "except" rather than "expect".

Page 180, line 22: Scott "Maltese" rather than "Maltez".

Page 186, line 25: "Syndee" Elster, rather than "Cindy".

Page 187, line 1: Elaine "Caputo" rather than "Tacuto".

Page 207, line 3 et seq.: All references to "Corham" should be spelled "Coram".

Page 225, line 7: "principal" rather than "principle".

In addition, the court reporting service incorrectly included Employer Exhibit 8 with the bound exhibits which were received into evidence, even though the Hearing

Officer rejected it. **I hereby correct the record by placing Employer Exhibit 8 in a rejected exhibit file.**